

RESOLUTION CR-29-15

A RESOLUTION APPROVING THE RACETRACK REDEVELOPMENT FUND GRANT AGREEMENT

WHEREAS, in 2012 the State of Ohio established a Racetrack Facility Community Economic Redevelopment Fund to assist in the redevelopment of abandoned horse racing track facilities; and

WHEREAS, the City is eligible to receive up to Three Million Dollars from the Fund to assist in the redevelopment of the abandoned track facility and defined project area; and

WHEREAS, under Ordinance C-27-15, the City established a Racetrack Redevelopment Committee which is required to submit grant requests to the Fund; and

WHEREAS, in order to submit grant requests, the City is also required to approve the Grant Agreement; and

WHEREAS, under the State process, the Agreement is approved in principle and as projects are recommended by the Committee and approved by Council they are attached as an addendum to the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. This Council hereby approves the terms of the Grant Agreement with the Ohio Development Services Agency as Attached hereto as Exhibit A.

SECTION 2. The City Administrator is hereby authorized to execute the Grant Agreement and all related documents, as approved to legal form by the Director of Law.

SECTION 3. Per Ordinance C-27-15, each project recommended by the Racetrack Redevelopment Committee will be brought to Council for approval prior to being included as part of the Grant Agreement.

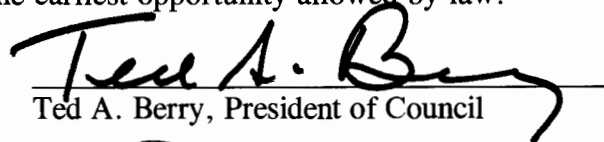
SECTION 4. The resolution shall take effect at the earliest opportunity allowed by law.

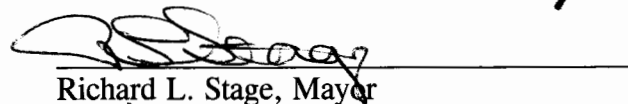
Passed: 06-01-15

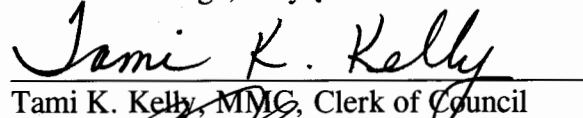
Effective: 06-01-15

Attest:

I certify that this
Resolution is correct as to form.


Ted A. Berry, President of Council


Richard L. Stage, Mayor


Tami K. Kelly, MMC, Clerk of Council


Stephen J. Smith, Director of Law

CR-29-15
EXHIBIT "A"
GRANT AGREEMENT

RACETRACK REDEVELOPMENT FUND GRANT AGREEMENT

Grantee							
Grantee:				Grant Control No.:			
Street Address:							
City:		State:		Zip:	45690	County:	
Project							
Project Name:							
Effective Date:				Project Completion Date:			
Maximum Grant Amount:	\$3,000,000						
Project Manager							
Name:				Title:			
Street Address:							
City:		State:		Zip:			
Telephone:		Fax:		E-Mail:			

This Grant Agreement (the "Agreement") is made and entered into between the **Ohio Development Services Agency**, ("Grantor") and **Grantee** to set forth the terms and conditions upon which Grantor will provide financial assistance to Grantee and Grantee will use the financial assistance to undertake and complete eligible activities within the Project(s) Area ("**Projects**") This Agreement incorporates by reference the "Scope of Work and Project Budget" for each of the Projects which is attached as Exhibit 1.

1. Project Funding.

(a) State Grant. Grantor hereby grants to Grantee, funds in an amount equal to the lesser of the maximum grant amount set forth above and the actual total costs of Projects as outlined in Exhibit 1 (the "**Grant Funds**").

(b) Purpose. The Grant Funds may be used for the sole and express purpose of undertaking and completing Projects. Grantee shall undertake and complete Projects substantially as described in the Scope of Work and Project Budget. Grantee may not use the Grant Funds for any purpose other than for eligible costs of Projects as expressly contemplated in the Scope of Work and Project Budget.

2. Payment and Accounting of Grant Funds

(a) Payment Requests. Grantee shall submit to the Grantor for review and approval requests for payment detailing expenditures which have then been incurred by Grantee in accordance with Exhibit 1. Grantor shall use the forms and follow the directions as listed in Exhibit 4, Disbursement Request Form and Instructions. Grantor shall be the sole evaluator of the adequacy of payment requests. All expenses to be paid or reimbursed with Grant Funds shall be supported by contracts, invoices, vouchers, paid receipts and other documentation as appropriate to evidence the costs incurred by Grantee for Project activities as described in Exhibit 1. Grantee shall submit to Grantor such documentation as necessary to substantiate a payment request. In the event of a complete or partial denial of a payment request, Grantor shall notify Grantee in writing and include a statement of specific reasons for such denial, and Grantee shall have an opportunity to re-submit the request for payment with additional information responsive to the reason for denial. Grantor shall use reasonable efforts to issue a notice of denial, in whole or in part, and/or initiate a voucher for payment within 30 days after receipt of a payment request from Grantee.

(b) Accounting of Grant Funds. Grant Funds and any and all interest income therefrom shall be deposited

and maintained in a separate account upon the books and records of Grantee (the "**Account**"). Grantee shall keep all records of the Account in a manner consistent with generally accepted accounting principles. All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, paid receipts, pay stubs, signed time sheets, and other data, as appropriate, evidencing the necessity of such expenditure. If Grantee fails to comply with this requirement, Grantor may withhold payment of Grant Funds until such compliance is demonstrated.

(c) **Permissible Expenses.** Travel expenses are not permitted as an eligible cost of Projects.

(d) **Budget Amendment.** A budget amendment is required when Grantee desires to reallocate to or from any line item in the approved Projects budget more than ten percent (10%) of the line item amount or \$10,000, whichever is greater. Reallocation of less than ten percent (10%) or \$10,000 to or from a line item requires written notification from the Grantee to Grantor. Additionally, a budget amendment is required when adding and reallocating Grant Funds to any new budget line item.

3. Grant Funds Not Expended. If the Grant Funds are not expended by Grantee in accordance with the terms and conditions of this Agreement or within the Term of the Agreement, set forth in Section 7 of this Agreement, the award of the Grant Funds shall cease and Grantor shall have no further obligation to disburse the Grant Funds. Grantor shall also have no obligation to disburse any amount of the Grant Funds that exceeds the eligible costs of Projects actually incurred by Grantee or for costs that fail to meet the eligibility guidelines outlined in the Program Guidelines. If Grant Funds have been paid to Grantee and Grantor determines that Grantee has not performed in accordance with the terms and conditions of this Agreement, Grantee shall return such improperly expended Grant Funds within 30 days after demand by Grantor. In the event that Projects are not completed in accordance with Exhibit 1 by the Project Completion Date (as such date may be extended as provided in Section 7(b) and/or is affirmatively abandoned by Grantee, all Grant Funds paid by Grantor to Grantee under this Agreement shall be refunded to Grantor by Grantee within 30 days after the Project Completion Date or abandonment has occurred.

4. Repayment of Grant Funds.

(a) **Non-Completion of Projects.** If Projects are not completed during the Term of the Agreement, as provided in Section 7 of this Agreement, then Grantee shall pay to the Grantor, for repayment to the Racetrack Redevelopment Fund, all or a portion of Grant Funds paid to Grantee as Grantor reasonably determines. Grantee shall pay this amount to the Grantor no later than 30 days after receipt of written notice from Grantor.

(b) **Compliance with Racetrack Redevelopment Fund Guidelines.** Projects must be completed in accordance with Section 7(C) of Amended Substitute House Bill Number 386 of the 129th General Assembly and Racetrack Redevelopment Fund Guidelines (the "Guidelines"). This Agreement incorporates by reference the Guidelines which are attached as Exhibit 2.

(c) **Payment Overages.** In no event shall disbursements exceed the amount of Grant Funds. Further, the amount of Grant Funds paid to Grantee shall not exceed the actual cost of Projects. As a result, Grantee may receive an amount of Grant Funds less than the maximum amount authorized by this Agreement, and Grantee may be required to repay Grant Funds if disbursements exceed actual Project Costs. Grantee shall pay such amount within 30 days after written notice from Grantor.

5. Agreement Deadlines and Term.

(a) **Term of Agreement.** This Agreement shall be in effect from the Effective Date through the Project Completion Date as set forth on page one of this Agreement, unless it is terminated earlier as provided in Section 16 (c) (collectively, the "**Term**"). Notwithstanding the above, Grantee acknowledges that the Term extends beyond the Project Completion Date for purposes of reporting by Grantee and monitoring by Grantor of the results of the award of Grant Funds.

(b) Modification to Term of Agreement. If it is anticipated that Grantee will not have completed Projects by the Project Completion Date, Grantee must request an extension of time not less than 60 days prior to the Project Completion Date, unless otherwise agreed to by the Grantor. It will be within the sole discretion of Grantor whether or not to grant such extension of time.

6. Non-Discrimination.

(a) Minority Hiring Goal. Grantee shall make a good faith effort to employ minority persons in the completion and operation of Projects in the same percentage as the average percentage of minority persons who reside in the county in which Projects is located and any contiguous Ohio counties.

(b) Equal Employment Opportunity. Grantee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on Projects (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.

7. Project Manager. Grantee hereby designates the officer or employee of Grantee identified on the first page of this Agreement to serve as Project Manager. Grantee shall notify the Grantor promptly in writing of any change of the person designated to serve as Project Manager.

8. Securing Contractor(s).

(a) Qualified Personnel. Grantee agrees to secure qualified personnel and/or contractors to complete eligible activities of the Projects. Grantee agrees to comply with all applicable laws governing the selection of contractors under this Agreement.

(b) Binding Provisions. Where performance of eligible activities of Projects are carried out by a Collaborative Partner(s) or a contractor of Grantee or a Collaborative Partner(s), Grantee shall make the provisions of this Agreement binding on such Collaborative Partner(s) and/or contractor. Notwithstanding any delegation of activities to a Collaborative Partner(s) or contractor, Grantee shall not be relieved of any legal responsibility for compliance with requirements of the Agreement.

(c) Procurement. Grantee shall procure goods and services (other than professional services) for which reimbursement is requested from the Grant Funds through a competitive procurement process if the aggregate cost of such goods or services is equal to or greater than \$50,000.00. Where the procurement of such goods or services is conducted pursuant to a procurement process required or allowed by the Ohio Revised Code for a municipality, county or port authority, such procurement process is deemed to satisfy the requirements of this paragraph. Where the procurement of such goods or services is not subject to a procurement process required or allowed by the Ohio Revised Code, Grantee agrees that the procurement of such goods or services shall follow the procedures outlined in Ohio Revised Code Chapter 153.

(d) Professional Services. Grantee shall procure professional services for which reimbursement is requested from the Grant Funds through a qualification-based process where the aggregate cost of such professional services is equal to or greater than \$50,000.00. Where the procurement of such professional services is not subject to a procurement process required or allowed by the Ohio Revised Code, Grantee may employ the procedures outlined in Ohio Revised Code Chapter 153 as a safe harbor.

(e) Terms and Conditions. Other terms and conditions under which the contractor(s), including professional services, will complete the Scope of Work as set forth in Grantee's Project Proposal. Such terms and conditions are incorporated in this Agreement by reference and are a material part of this Agreement.

9. Other Grantee Requirements.

(a) Liability Insurance. Grantee, Collaborative Partner(s) or counter parties shall obtain and maintain for itself, and ensure that others engaged in Projects obtain and maintain, comprehensive general liability insurance with a minimum of \$1,000,000 combined single limit for claims that may arise from their operations related to this Agreement. Each such policy shall name Grantor and the State of Ohio as additional insured parties. Evidence of insurance sent to the Grantor shall contain a clause to the effect that cancellations, reductions, or restrictions shall not be made without 30 days prior written notice to Grantor. Grantee, Collaborative Partner(s) or counter parties shall provide Grantor an annual update of the required insurance coverage for each calendar year of Projects prior to the Grant Completion Date. The cost of liability insurance required by Grantor is not an eligible cost that may be paid or reimbursed with Grant Funds.

10. Reporting.

(a) Quarterly Progress Reports. Grantee shall provide Quarterly Progress Reports to the Grantor. The Quarterly Progress Report shall include a description of all work completed, beginning and end dates of work completed, proposed tasks and objectives for the next quarter, and any recent significant events.

(b) Completion Notice and Final Report. Within 30 days after Projects are completed, whether on or before the Project Completion Date, Grantee shall notify Grantor in writing of completion of Projects (the "**Completion Notice**"). In addition, Grantee shall submit a final report setting forth the total expenditure of the Grant Funds, the total actual cost of Projects, a written summary of all work completed and Project benefits (the "**Final Report**"). The Final Report shall be signed and certified by the Project Manager.

11. Grantee Deliverables. Grantee shall provide or cause to be provided to Grantor each of the documents identified in this section.

(a) Request for Approval of Projects. Grantee shall request Grantor approval for each of the Projects. Grant Funds shall not be paid to Grantee prior to Grantor approval as indicated in Exhibit 1.

(b) All payment requests for Grant Funds as described in Section 2 of this Agreement.

(c) Quarterly Progress Reports and Final Reports for Projects as required by Section 10 of this Agreement.

(d) All final deliverables as identified in Exhibit 1, if applicable.

12. Records Maintenance and Access.

(a) Maintenance of Records. Grantee shall establish and maintain for at least three years after the Project Completion Date or any earlier termination date its records regarding this Agreement, the Grant Funds and Projects, including, but not limited to, financial reports and all other information pertaining to Grantee's performance of its obligations under this Agreement. If any audit, dispute, or litigation is then pending, however, Grantee shall maintain such records as may be relevant to such matter until it is finally resolved.

(b) Inspection and Copying. At any time during normal business hours and upon not less than 24 hours prior written notice, Grantee shall make available, and shall cause Collaborative Partner(s) to make available, to Grantor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement, the Grant Funds and the Project which are in the possession or control of Grantee or Collaborative Partner(s), as the case may be. Grantor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records. Grantor or the other inspecting agency or official shall use reasonable efforts to conduct its inspection of books and records in such a manner as not to interfere unreasonably with the normal business operations of Grantee or Collaborative Partner(s). Grantee or Collaborative Partner(s) shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this section from Grantee's or Collaborative Partner(s)'s other records of operation. Grantee also authorizes, and shall cause Collaborative Partner(s) to authorize, Grantor to inspect the personnel records and corporate financial statements

of Grantee or Collaborative Partner(s), respectively, including tax records and other similar information not open to public inspection. This inspection right does not require Grantee or Collaborative Partner(s) to waive any protections afforded by the attorney-client privilege or work product doctrine.

13. Adherence to State and Federal Laws and Regulations.

(a) General. Grantee shall comply with all applicable federal, State, and local laws in the performance of Grantee's obligations under this Agreement, the completion of Projects and the operation of Projects as long as Grantee has any obligation to Grantor under this Agreement. Without limiting the generality of such obligation, Grantee shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withhold, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in connection with Projects, and Grantee shall comply with all applicable environmental, zoning, planning and building laws and regulations.

(b) Ethics. In accordance with Executive Order 2011-03K, Grantee, by its signature on this document, certifies: (1) it has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 et seq., §§ 2921.01, 2921.42, 2921.421, and 2921.43, and §§ 3517.13(I) and (J), and (2) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws, is in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

(c) Conflict of Interest. No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any such person who, prior to or after the execution of this Agreement, acquires any personal interest, involuntarily or voluntarily, shall immediately disclose his interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

(d) Outstanding Liabilities. Grantee represents and warrants to Grantor that Grantee does not owe: (1) any delinquent taxes to the State or a Political Subdivision (as defined in the Program Policies) of the State; (2) any amount to the State or a State agency for the administration or enforcement of any environmental laws of the State; and (3) any other amount to the State, a State agency or a Political Subdivision of the State that are past due, whether or not the amounts owed are being contested in a court of law.

If Grantee owes any outstanding liability or liabilities, as described above in this Section 13 (d), or if Grantee is aware or becomes aware of any outstanding liability or liabilities owed by a Collaborative Partner(s) or any affiliate entities of a Collaborative Partner(s) at any point during the Term of this Agreement, Grantee shall immediately disclose to Grantor such liability or liabilities. Grantor shall not terminate this Agreement based solely on an outstanding liability or liabilities disclosed in accordance with the Section unless such liability or liabilities has or have a material impact on Grantee's or the Collaborative Partner(s)'s ability to perform any or all duties or obligations of Grantee under this Agreement or of Collaborative Partner(s) under any related agreement. This Section is not intended to require a Grantee or a Collaborative Partner(s) to waive any rights it may have to contest a claimed obligation or to pay, under protest or otherwise, a claimed obligation which is contested until the validity of the claimed obligation has been finally determined.

(e) Kickbacks. Grantee represents and warrants to Grantor that Grantee has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback, and Grantee covenants and agrees that Grantee, its employees and agents shall not provide, attempt to provide, offer to provide, solicit, accept, or attempt to accept any kickbacks during the Term of this Agreement; and Grantee has not knowingly

included, directly or indirectly, the amount of any kickback in the estimated cost of this Project nor will knowingly include, directly or indirectly, the amount of any kickback into any request for reimbursement. Grantee will incorporate the requirements of this paragraph in all of its respective contracts or agreements with Collaborative Partner(s), including any legal affiliate of Collaborative Partner(s), contractor(s), and subcontractor(s), and Grantee will require Collaborative Partner(s) to incorporate such requirements in all subcontracts for work performed in furtherance of this Agreement.

(f) Falsification of Information. Grantee represents and warrants to Grantor that Grantee has made no false statements to Grantor or any of its employees or agents in the process of obtaining the award of Grant Funds. Grantee acknowledges that any person who knowingly makes a false statement to obtain an award of financial assistance may be required under Ohio Revised Code § 9.66(C) to repay such financial assistance and shall be ineligible for any future economic development assistance from the State, any State agency or a Political Subdivision. In addition, any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code § 2921.13(F) (1).

(g) Public Records. Grantee acknowledges that this Agreement and other records in the possession or control of Grantee regarding Projects are public records under Ohio Revised Code § 149.43 and may be open to public inspection unless a legal exemption applies.

14. Default and Remedies.

(a) Default. Grantee shall be in default of this Agreement if Grantee fails to perform any of its obligations under this Agreement and such failure to perform continues uncured for more than 30 days after written notice (a "Default Notice") from Grantor. During the 30 day cure period, Grantee shall incur only those obligations or expenditures pre-approved by Grantor that are necessary to enable Grantee to continue its operations and achieve compliance with the terms and conditions of this Agreement. Grantee shall also be in default of this Agreement if Grantee is in default of any other agreement between Grantor and/or the Director of Grantor and Grantee and such default continues beyond any applicable period of cure or grace.

(b) Remedies. Following a default by Grantee, Grantor may exercise one or more of the following remedies:

(i) Discontinue Disbursements. If the Grant Funds have not been fully disbursed, Grantor may terminate any and all of Grantor's obligations under this Agreement, including the obligation to make further disbursements of Grant Funds.

(ii) Demand Repayment of Grant Funds. Under the circumstances described in Section 5 and 6 of this Agreement, Grantor may demand repayment of Grant Funds. Grantee shall not be required to refund Grant Funds in an amount that exceeds the Grant Funds awarded.

(iii) Other Legal Remedies. Pursue any other legal or equitable remedies Grantor may have under this Agreement or applicable law.

(c) Early Termination. Grantor may also terminate this Agreement if Grantee (i) defaults under another Agreement between the Grantor and Grantee, (ii) admits Grantee's inability to pay its debts as such debts become due, (iii) Grantee commences a voluntary bankruptcy, (iv) an involuntary bankruptcy action occurs against Grantee which remains undismissed or unstayed for 60 days, (v) Grantee fails to meet the minimum funding requirements under the Employee Retirement Income Security Act or other such employee benefits plan, or (vi) Grantor has reason to believe Grantee has terminated Projects. The events permitting early termination by Grantor shall be considered a default by Grantee and subject to the remedies available under paragraph (b) of this Section 16.

(d) Remedies Cumulative. No remedy provided to Grantor under this agreement or otherwise by law or in equity is exclusive of any other available remedy. No delay or omission by Grantor in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised from time to time as often as may be deemed by Grantor to be expedient.

(e) Effects of Termination. Within 60 days after termination of this Agreement following any default, Grantee shall provide Grantor with a Final Report, as detailed in section 10 (b) below. This reporting obligation shall survive the termination of the Agreement.

(f) Grantor's Expenses. Grantee shall reimburse Grantor for all expenses, including, without limitation, reasonable attorneys' fees, in connection with the enforcement of this Agreement.

15. Liability. Grantee agrees to be liable for the negligent acts or negligent omissions of Grantee, its employees, agents and contractors. Grantee shall defend itself and pay any judgments and costs arising out of such negligent acts or omissions. Nothing in this Agreement shall impute or transfer any such liability to Grantor.

16. Certification of Funds. None of the rights, duties and obligations of the parties under this Agreement shall be binding on either party until all statutory provisions of the Ohio Revised Code including, without limitation, Section 126.07, have been complied with, and until such time as all funds have been made available and are forthcoming from the appropriate State agencies.

17. Notice. Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class certified or registered mail or sent by commercial delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to Grantor:

Ohio Development Services Agency
77 South High Street, 26th Floor
P.O. Box 1001
Columbus, Ohio 43216-1001
Attn: Racetrack Redevelopment Fund, Office of
Community Assistance
Fax No.: (614) 466-4053

If to Grantee:

To Projects Manager
and Address as set forth on Page 1

With copy to Chief Legal Counsel at same address.

18. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters including, but not limited to, its validity, construction, effect and performance.

(b) Forum and Venue. Grantee irrevocably submits to the non-exclusive jurisdiction of any federal or State court sitting in Columbus, Ohio, in any action or proceeding arising out of or related to this Agreement, Grantee agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and Grantee irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum. Nothing in this Agreement shall limit the right of Grantor to bring any action or proceedings against Grantee in the courts of any other jurisdiction. Any actions or proceedings by Grantee against Grantor or the State involving, directly or indirectly, any matter in any way arising out of or related to this Agreement shall be brought only in a court in Columbus, Ohio.

(c) Entire Agreement. This Agreement, including its exhibits and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between the parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of this Agreement.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as

to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(e) Amendments. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment of this Agreement shall be in writing and shall specify the requested changes and the justification for each change. The parties shall review the request for amendment taking into consideration the statutes, policies and goals of Projects. If the parties concur on changes to the terms of this Agreement, an amendment shall be written, approved, and executed in the same manner as the Agreement. All amendments requested by Grantee must be received by Grantor at least 30 days prior to any request for payment that includes the proposed change(s).

(f) Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights under this Agreement or applicable law.

(g) Pronouns. The use of any gender pronoun shall be deemed to include the other gender, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

(h) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be used in construing this Agreement.

(i) Assignment. Neither this Agreement nor any rights, duties, or obligations of Grantee pursuant to this Agreement shall be assigned by Grantee without the prior express written consent of Grantor, which shall not be unreasonably withheld. Any purported assignment not made in accordance with this paragraph shall be void.

(j) Binding Effect. Each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of Grantee, its successors and permitted assigns.

(k) Survival. Any provision of this Agreement which, by its nature, is intended to survive the expiration or other termination of this Agreement, including, without limitation, any indemnification obligation, shall so survive and shall benefit the parties and their respective successors and permitted assigns.

(l) Authorized Representative. The Grantee represents and warrants that the Grantee, through its authorized representative signing below, has full power and authority to execute and enter into this Grant Agreement.

(m) Counterparts; PDF Accepted. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of signatures sent by facsimile transmission or provided electronically in portable document format ("PDF") shall be deemed to be originals for purposes of execution and proof of this Agreement.

Signature: Each of the parties has caused this Grant Agreement to be executed by its authorized representatives as of the dates set forth below their respective signatures effective as of the Effective Date:

Grantee:

Grantor:

Ohio Development Services Agency

David Goodman
Director

By: _____

Printed Name: _____

Title: _____

Date: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Acknowledged by Collaborative Partner:

By: _____

Printed Name: _____

Title: _____

Date: _____

Exhibits to Grant Agreement:

Exhibit 1: Scope of Work and Project Budget

Exhibit 2: Racetrack Redevelopment Fund Guidelines, Process, and Definitions

Exhibit 3: Special Conditions

Exhibit 4: Disbursement Request Form and Instructions

EXHIBIT 1

Scope of Work and Project Budget

Grantee Name	
Project Contact (name, title, address, phone and e-mail)	
Collaborative Partner Contact, if applicable (name, title, address, phone and e-mail)	

Project Name	
Property Address	
Acreage	
Parcel Number(s)	
Latitude and Longitude Center of Property	

Grant Funds Requested	
Leveraged Funding, If applicable	
Total Project Costs	

Current Property Owner	
If the Grantee or Collaborative Partner is not the current owner	
Access agreement in place	If Yes, provide a copy of the agreement If No, provide a status update
Purchase agreement in place	If Yes, provide a copy of the agreement If No, provide a status update if purchase agreement is needed

Required Attachments:

- A. Project Summary and Cost Estimate Document
- B. Project Sources and Uses of Funds
- C. Project Schedule
- D. Applicable Reports
- E. Project Area (Map and Description)

Attachment A: Project Summary and Cost Estimate Document

Provide an overview of the project including, as applicable, the following:

1. Project Description and Anticipated Outcomes of the project

- a. Background information:
 - i. Current status of the property: describe onsite structures and condition, available infrastructure, site ownership status and tenants as applicable.
 - ii. Brief history of the property, including previous uses and owners
 - iii. Property location: neighborhood or corridor, general land uses in the area, condition of the area
- b. Redevelopment Plan: Describe the redevelopment plan for the property including any new construction or rehabilitation of buildings and infrastructure improvements. If available, provide a rendering or development plan of the proposed site layout. Also describe the activities of the new user(s).
 - i. Include a description of any opportunities for sustainable practices: Include a description of any sustainability goals for the project (i.e. reused or recycled materials, storm water run-off management, use of alternative energy in planned development)
- c. Economic/Community Benefits: Include information regarding committed users for the site, number of jobs (created and retained), estimated wages, leveraged dollars, taxes generated as a result of the project (i.e. property or income taxes). Include a description of how the project will benefit the community such as how the project fits within an adopted strategic plan for the area or master plan for the community. Also describe how this project will benefit residents and/or local businesses.

2. Project Activity by Category

- a. Provide a Project Overview Figure showing the location and identification of planned activities (e.g. structures to be demolished, type and location of new infrastructure, buildings to be renovated, areas of remediation etc.)
- b. Describe all proposed project activities and estimated cost by category. Include all planned activities regardless of funding source. Also provide pertinent details such as calculated figures and assumptions (e.g. volume of materials and square footage of buildings)
 - i. Engineering or Design Services
 - Provide a description of planned engineering or design services such as architectural renderings, site figures, geotechnical services and preparation of bid specifications.
 - ii. Demolition
 - Provide dimensions of site structures which will be demolished, including subgrade areas and a description of the building materials (e.g. brick, concrete, structural metal, asbestos). Include the estimated volume of material to be recycled, removed from the site and, if applicable, the estimated volume of backfill material needed after foundation removal.
 - iii. Environmental Assessment or Remediation
 - Provide details of assessment and/or remediation activity by task (e.g. removal of an underground storage tank, asbestos abatement, lead based paint abatement, soil remediation). NOTE: Include removal and disposal of Universal Waste and Contaminated Building Materials in this section.

- iv. Site Prep
 - Provide details of any site prep work necessary either following demolition or in advance of construction. Include in this section any costs for ancillary development activities (e.g. landscaping, walk/bike pathway construction)
- v. Infrastructure
 - Provide a detailed description of the types, quantities, and location of the new or improved infrastructure.
- vi. Construction
 - Provide dimensions of proposed structure(s) and a description of building materials. Note any considerations for utilizing LEED or green building standards during construction. Include in this section all costs for interior work associated with the construction as well (e.g. electrical, plumbing, HVAC, flooring etc.)
- vii. Rehabilitation
 - Provide a description of the activities to be completed (e.g. replace windows, upgrade electric service, plumbing, interior demolition and construction).
- viii. Professional Services
 - Include costs for developer fee, legal, environmental consultant or other professional services. Include detailed estimate with position title and hourly rate along with any direct expenses.
- ix. Administrative Costs
 - Provide a description and detailed estimate of administrative costs to be incurred by the Grantee. Include detailed estimate with position title and hourly rate along with any direct expenses.
- x. Other
 - Include a description and associated costs for any activity that does not generally fall into one of the pre-defined categories above

3. Detailed Project Budget

- a. Provide a detailed project budget identifying all major project tasks and the costs associated. Costs for each task must be itemized and unitized. All costs over \$50,000 must be supported by a cost estimate provided by a potential subcontractor. All cost estimates must be certified by an Ohio Professional Engineer. If other professional services are required, (e.g. environmental consulting, architectural, geotechnical) provide estimates from each provider. Ensure the itemized and unitized costs as well as backup documentation corresponds with each other.

4. Project's readiness to proceed

- a. Provide a description of any activities necessary for project commencement
- b. General timeline for the project

Attachment B: Project Sources and Uses

Provide a list of funding sources for the Project and indicate how funds will be allocated for specific Project activities.

Attachment C: Project Schedule

Provide a project timeline, preferably in Gantt format; include all major milestones necessary to complete the project.

Attachment D: Applicable Reports

Provide copies of any applicable reports in electronic format on disk or USB storage device. Reports may include environmental site assessment (Phase I and Phase II), asbestos or lead based paint survey, geotechnical report, property appraisals, title reports, etc.

Attachment E: Project Area (Map and Description)

Provide an aerial photograph or map with the Project Area outlined. Include a description of the project area, as needed.

Grantee:

Grantor:

Ohio Development Services Agency

David Goodman
Director

By: _____

Printed Name: _____

Title: _____

Date: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Acknowledged by:

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT 2

Racetrack Redevelopment Fund **Guidelines, Process, and Definitions**

Program Overview and Goals:

- The Racetrack Facility Community Economic Redevelopment Fund (Racetrack Redevelopment Fund) was created via Section 7 of HB 386 of the 129th General Assembly. The Racetrack Redevelopment Fund receives a portion of money paid to the state by horse-racing permit holders for the privilege to relocate to a new facility in accordance with Section 3 of Sub. H.B. 277 of the 129th General Assembly, as amended.
- The Racetrack Redevelopment Fund will be used for economic and community benefit projects with a primary goal of redeveloping the abandoned horse-racing Track facility. Use of funds will be prioritized for activities leading to revitalization of the abandoned Track facility resulting in an economic benefit for the community and the state.

Guidelines:

- An eligible Community may receive up to \$3 million in grant funding for Revitalization of an abandoned Track facility and defined Project Area.
- Each eligible Community will assemble a Racetrack Redevelopment Committee (Committee) for the planning and vetting of potential Projects. Committees must include, but are not limited to the following:
 - A representative from the Community
 - Collaborative Partner(s) (if any)
 - A non-voting representative from Ohio Development Services Agency (ODSA).
- Additional Committee members are permitted. Suggested members include but are not limited to the following:
 - Representatives from the county, local port authority or county land bank; local economic development entities;
 - Entities adjacent to or nearby the abandoned Track facility (i.e. business owners, adjacent land owners and adjacent local governments).
- Committee meetings are subject to the Ohio Open Meetings Act.
- Eligible costs include Site Planning, Site Certification, Structure Demolition, Repurposing, Physical Site Redevelopment, Relocation of Utilities, or Construction. Costs for grant administration and professional services are also eligible and should be minimized.
- Grant funds may not be used for acquisition and related expenses.
- Not more than fifty percent (50%) of grant funds may be used within the Project Area for Construction or Repurposing of publicly owned and operated facilities (excluding Site Planning, Site Certification, Structure Demolition, Physical Site Redevelopment, and Relocation of Utilities).
- ODSA will administer grant agreements with each Community for up to three years.
- Release of grant funds is contingent on ODSA Director approval of Projects submitted by the Committee and an agreement between the Community and Collaborative Partner(s), if applicable.

- If the Track facility is owned by a political subdivision other than the Community, then the property owner must enter into an agreement with the Community as a Collaborative Partner. No grant funds will be released prior to the execution of such an agreement that is also approved by the Director of ODSA. The agreement must include:
 - Access to the property;
 - Certification that funds shall be used as set forth in Section 7(C) HB 386 of the 129th General Assembly;
 - Specific instructions for grant fund distribution.
- Access for the Community to all property where grant funds will be utilized shall be required.
- Grant funds shall be disbursed on a work completion basis. All requests for disbursement shall be submitted to ODSA using a format prescribed in the grant agreement.
- The Community shall conduct Projects in accordance with all applicable laws and ODSA regulations including but not limited to the Ohio Environmental Protection Agency Voluntary Action Program and state prevailing wage.

Proposed Process:

- Each Committee will identify the Project Area where grant funds will be utilized.
- Each Committee will prioritize projects for Revitalization of the abandoned Track facility followed by other initiatives in the Project Area.
- As projects are vetted and proposed by the Committee, ODSA will review and receive approval from the Director of ODSA prior to any release of grant funds. Project submission must follow the format prescribed by ODSA in the grant agreement.
- If a Committee submits multiple projects for approval, ODSA will give priority to projects that directly impact the Revitalization of the Track.

Definitions:

“Collaborative Partner” means any political subdivision, non-profit entity, or for-profit entity partnering with the Community for revitalization of the abandoned Track facility. Collaborative Partner(s) will be identified in an agreement with the Community.

“Community” means the municipal corporation, as defined by Ohio Revised Code, in which the abandoned Track is located.

“Construction” means the building of new structure(s) on the abandoned Track property or within the Project Area.

“Infrastructure” means the technical structures that support the property uses, including but not limited to roads, bridges, water supply, sewers, gas supply, power grids, and telecommunications, but excludes vertical structures, such as buildings and parking garages.

“Permit holder” means a person that has been authorized by the State Racing Commission to conduct one or more horse-racing meetings under Chapter 3769. of the Revised Code.

“Physical Site Redevelopment” means site preparation activities including clearance, grading, backfill, compaction, and seeding necessary to prepare the site for development. Physical site redevelopment also includes landscaping and beautification along roadways and entrances within the Project Area.

“Project” means work completed for Revitalization of the Track property and associated Project Area.

“Project Area” means the boundary defined by the Racetrack Redevelopment Committee as the contiguous area, neighborhood, or community where Racetrack Redevelopment Fund dollars will be utilized. The Project Area must include the abandoned Track and extend no more than a one mile radius from the center of the Track property.

“Relocation of Utilities” means the physical relocation, improvement or construction of Infrastructure.

“Repurposing” means of the rehabilitation or renovation of existing structure(s) on the abandoned Track property or within the Project Area.

“Revitalization” means the redevelopment of the abandoned Track property and associated Project Area for a new economic and community benefit. Revitalization includes Construction,

Physical Site Redevelopment, Relocation of Utilities, Repurposing, Site Certification, Site Planning, and Structure Demolition.

"Site Certification" means environmental assessment, remediation and cleanup, including professional services necessary to conduct these activities. Site certification may also include preparation for certification through available site selection programs.

"Site Planning" means planning, engineering, and design including professional services necessary to conduct these activities.

"Structure Demolition" means the razing or tearing-down of above-ground and sub-surface buildings and structures including the removal of utilities, parking lots, roads, and other infrastructure. Demolition activities can also include 1) any on-site debris processing, 2) removal and disposal of any asbestos-containing or otherwise contaminated debris, and 3) removal and disposal of any universal waste that was located within the structures.

"Track" means any place, track or enclosure where a permit holder conducts live horse racing for profit at a racing meeting. Track includes facilities or premises contiguous or adjacent to those places, tracks, or enclosures.

EXHIBIT 3

Special Conditions

Grantee shall perform the following prior to release of Grant Funds:

- Submit to Grantor a list of members for the Racetrack Redevelopment Committee and scheduled meetings
- Submit a figure or map, approved by the Racetrack Redevelopment Committee, identifying the entire eligible Project Area (as defined in Exhibit 2).
- Receive approval from Grantor for each Scope of Work and Project Budget.

EXHIBIT 4

Disbursement Request Form and Instructions

Ohio Development Services Agency
77 South High Street, 26th Floor
Columbus, Ohio 43216-1001

Racetrack Redevelopment Fund

Disbursement Request
Procedure Manual

Please contact program manager to request electronic copies of this manual

1.0 Policy

- 1.1 The procedures in this manual are applicable to the Racetrack Redevelopment Fund awards issued by the Ohio Development Services Agency (Agency). In no event shall a request for payment be submitted to obtain funds for activities until the applicable grant conditions, if any, have been satisfied. Failure to comply with this provision and the procedures as outlined in this manual, the grant agreement, or all applicable laws may result in delayed payments or the suspension of the applicable award. Such action will be rescinded upon satisfactory proof that the conditions and procedures are satisfied.
- 1.2 Payment will be made only to reimburse the Grantee (Recipient) for eligible expenses that have been completed in accordance with the approved grant agreement. Invoices are required to show itemized billing. Back up documentation for itemized costs is required.
- 1.3 Disbursements will be paid via Electronic Funds Transfer (EFT) or check.

2.0 Disbursement Prerequisites

- 2.1 Prior to processing any disbursement request, the Agency must be in receipt of the following, as applicable:
 - 2.1.1 Copy of declarations page or certificate of insurance showing Recipient's comprehensive general liability insurance coverage.
 - 2.1.2 Proof of performance bonds and insurance (as applicable) from environmental contractors and consultants.
 - 2.1.3 Authorized Signature Card(s) containing the signatures of individuals on the Recipient's staff who are authorized to sign the Disbursement Form and Status of Funds (DFSF) report form. Only the signatures of persons authorized on current signature cards on file will be accepted. New signature cards must be submitted whenever there is a change to the persons authorized to sign the DFSF forms.
 - 2.1.4 Any other items, as described in the Grant Agreement.
- 2.2 The Recipient must have arranged for payment via check or EFT. If the Recipient does not have an existing "Authorization Agreement for Automatic Deposit of State Warrants" with the State's Office of Budget and Management, they must submit forms (OBM-5657 and OBM-4310) along with a W-9 and voided check at least 30 days prior to submitting an invoice for payment. These forms can be found on the Office of Budget and Management's website:
<http://ohiosharedservices.ohio.gov/VendorsForms.aspx>.

3.0 Disbursement Requests

3.1 The following documents must be included with each disbursement request:

- 3.1.1 **Disbursement Form and Status of Funds (DFSF) Report** summarizing the dollars requested for grant activities.
- 3.1.2 **Invoices** showing costs in time and materials format with back up documentation of costs included. Sufficient backup would include a quantity (e. g., number of hours; number of a particular type of lab test; number/feet of soil borings), a price per quantity, and an extension of quantity/price. Worker costs should be separated by name or title. Backup should substantiate the above by day. All expenditure occurrences must show clearly they were incurred during the period of the Grant Agreement and be in compliance with all Grant Agreement conditions.
- 3.1.3 **Contractor invoices** should include certified payrolls, truck tickets and corresponding disposal manifests for all non-C&D material, and invoices from all subcontracts. An AIA form is recommended for use as the contractor invoice. Daily work sheets from contractors can be included for clarity. A weekly summary using the attached Sample Contractor Detail Format or a similar form should precede the supporting documents for each week.
- 3.1.4 **Progress Report** covering the areas in the attached example. Please include general quantities when describing the work progress such as number of wells installed, buildings demolished, and/or soil removed. Please include total number of hours worked for this payment request.

3.2 The following additional document must be sent with the final disbursement request:

- 3.2.1 Completion Notice and Final Report as described in the Grant Agreement.

Authorized Signature Card for Disbursement Form and Status of Funds Report	
Project Number:	
Grant Issued in Favor of (Recipient):	Issued By: The State of Ohio Development Services Agency 77 S. High St., 26 th Floor Columbus, OH 43215-6130
Typed Name, Signature and Title:	Typed Name, Signature and Title:
Typed Name, Signature and Title:	Typed Name, Signature and Title:
<p><i>Note: Two Signatures are Required to Sign and Countersign a Disbursement Form and Status of Funds Report</i></p> <p>I certify that the above signatures are of the individuals authorized to sign the Disbursement Form and Status of Funds Reports.</p>	
_____ Date	_____ Signature of Authorizing Official (Recipient)

Progress Report
Sample

Progress Report No. _____

Recipient: _____

Date: _____

Project Title: _____

Grant No. _____

I. Tasks

Describe progress on tasks including planning/remediation/demo/construction/etc.:

II. Jobs

Total work hours paid for above tasks:

Please list names of registered Minority, Women, or Disadvantaged Business Enterprise companies employed during this time:

III. Proposed Tasks/Objectives for Next Invoice

Clean Up/Remediation:

Other:

IV. Certification

I hereby certify that to the best of my knowledge the above information is true and correct.

[Authorized representative of Borrower/Grantee]

<div style="display: flex; justify-content: space-between;"> <div> <p style="margin: 0;">State of Ohio</p> <p style="margin: 0;">Disbursement Form and Status of Funds Report</p> </div> <div style="text-align: right;"> <p style="margin: 0; border: 1px solid black; padding: 2px;">PRINT This</p> </div> </div>					
Section One: Request for Payment					
<p>Ohio Development Services Agency</p> <p>77 S. High St., 26th Floor</p> <p>Columbus, OH 43215-6130</p> <p>Contact Person/Telephone Number:</p> <p>FTI Number:</p>	<p>Name and Address of Grantee:</p>			<p>Control Number:</p> <p>Draw Number:</p> <p>Dates For This Draw Number:</p> <p>From:</p> <p>Thru:</p>	
Section Two: Status of Racetrack Grant Funds				State Use Only	
	Agreement	Expended	<p>Recd By: _____ Date: _____</p> <p>Auditor Distribution Number:</p>		
1. Racetrack Total Grant	\$ 3,000,000.00	\$ -			
Section Three: Itemization of Expenditures					
		\$ -			
Activity Name	Activity Budget	Amount of This Draw	Previous Amount Drawn	Cumulative Amount Drawn	Balance
Remediation/Clean Up	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition					
Construction					
Planning					
Total of This Draw:		\$ -			
Section Four: Certification of Expenditures (Two Signatures Are Required)					
<p>I certify that this Request for Payment is in accordance with the terms and conditions of the Loan/Grant Agreement(s) cited and is proper for payment to Borrower's/Grantee's depository. I also certify that the data reported above is correct and that back-up detailed documentation has been submitted.</p>					
Date:	Signature	Title			
Date:	Countersignature	Title			
Approved:		Date:		State Use Only (Rev. 3/15)	